

### III. REMARKS

1. Claims 1 and 9 are amended. Claim 1 is amended to delete the phrase "the steps of". Claim 9 is amended to more positively recite the elements of the claim and correct some minor language errors in the claim.

2. With respect to the rejections of claims 4 and 5, it is wondered whether Applicant's prior responses have been properly considered. The following is reproduced from the response filed on 6 February 2008.

**"Furthermore, Applicant once again reasserts that Hamalainen is not a proper prior art reference for purposes of 35 USC §103(a).**

35 USC §103(c) clearly states that subject matter which qualifies as prior art only under one or more of subsections (e), (f) and (g) of section 102 shall not preclude patentability when the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation to assignment to the same person.

Both Applicant's invention and Hamalainen, were at the time of Applicant's invention, commonly owned or subject to an obligation of assignment to Nokia Corp. Further, Hamalainen **only** qualifies as a reference under 35 U.S.C. §102(e). Thus, pursuant to 35 U.S.C. §103(c), Hamalainen **is not** a proper prior art reference. Therefore, the rejection of claim 4 is moot.

4. Claim 5 is patentable under 35 U.S.C. §103(a) over Honkasalo, Abe and Hamalainen in further view of Turina (US 6,031,832) at least by reason of its dependency.

**Applicant once again reasserts that Hamalainen is not a proper prior art reference for purposes of 35 USC §103(a).** 35 USC §103(c) clearly states that subject matter which qualifies as prior art only under one or more of subsections (e), (f) and (g) of section 102 shall not preclude patentability when the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation to assignment to the same person.

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This ground of rejection continues to be re-asserted. It is respectfully requested that the foregoing be taking into consideration.

3. Claims 1-3, 6-9 and 13-29 are not unpatentable under 35 U.S.C 103(a) over Honkasalo et al. (US 5,995,496) ("Honkasalo") in view of Oberholtzer et al. (US 5,465,399) ("Oberholtzer").

The Examiner states that Honkasalo does not teach transmitting information that is divided into successive blocks of the downlink data transmission from the base station to the mobile station on the radio channel, and wherein one of said blocks comprises data indicating power reduction in the transmission power level of said one block of the downlink data transmission or another block of the downlink data transmission to be transmitted subsequently. This is not disclosed or suggested by Oberholtzer.

Oberholtzer discloses a communication frame structure. (Col. 11, line 43 et seq.) The control block data field of this communication structure, comprises *inter alia*, a transmit

power level (Col. 12 lines 47—50). The data field of the control block contains the server's transmit power level. (Col. 13, lines 1-6). The server is the member station initiating the communication. (Col. 12, lines 66-67). Oberholtzer also discloses a principal client that responds with a communication block comprising data field indicating principal client's transmission power. (Col. 13, lines 13-19). The data provided in the principal client's response is information regarding the principal client's current transmit power level. (Col. 13, lines 19-22). This is not the same as a block of data indicating "power reduction" as is recited by Applicant in the claims.

Oberholtzer only discusses indicating a "current" transmit power level, and not a "power reduction" as is claimed by Applicant. Col. 28, lines 47-55 referred to by the Examiner, claims 21 and 22, disclose method steps for decreasing the transmit power level if the reception quality in the respondent signal exceeds a predefined margin, and for reducing the transmit power level in subsequent radio transmissions until the reception quality reported by any other member station is less than or equal to the predefined margin. While Oberholtzer may disclose steps for decreasing the power level, there is no disclosure here or elsewhere related to a block of data that indicates "power reduction" as is claimed by Applicant.

Since neither Honkasalo nor Oberholtzer disclose or suggest at least this feature, a *prima facie* case of obviousness under 35 USC §103(a) is not and cannot be established.

Further, the present application discloses on page 17, lines 24—27, that mobile stations are informed of a change in the transmission power of the PDCH channel by means of a PR field (Power Reduction). On page 19, lines 12—18, it is stated that the PR field indicates a "reduction" in the power used to transmit the next RLC block on the PDCH channel when compared with the PBCCH channel. The "reduction" can be indicated e.g. by two bits according, as shown in Table 1 on page 19.

Oberholtzer only discloses that the information includes the transmit power level. However, claim 1 recites that the block comprises data indicating the "power reduction." In Applicant's disclosure, it is stated that the transmission power should be as low as possible to avoid co-channel interference and to optimize power consumption. However, prior to Applicant's claimed invention, the power controls were conducted so that the data transmission took place with the highest transmission power after which the power is rapidly reduced. This causes problems which can be prevented by Applicant's claimed subject matter by informing mobile stations of changes in power levels caused by the communication network, and informing the mobile stations in advance. This kind of information cannot be provided by Oberholtzer, or the combination of Honkasalo and Oberholtzer, that only indicates the current transmit power level. Therefore, one of skill in the art would not be motivated to combine Honkasalo with Oberholtzer, and the combination does not result in Applicant's claimed subject matter.

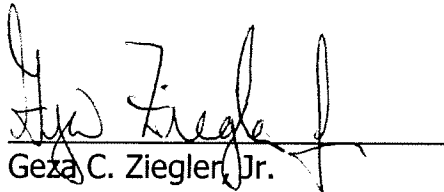
Therefore, claims 1, 8, 9, 26 and 28 are not disclosed or suggested by the combination of Honkasalo and Oberholtzer. Claims 2-3, 6-7, 13-25, 27 and 29 should be allowable at least by reason of their respective dependencies.

4. Claim 4 is not unpatentable over Honkasalo and Oberholtzer in view of Hamalainen at least by reason of its dependency and the statements with respect to 35 USC §103(c). above.

5. Claim 5 is patentable under 35 U.S.C. §103(a) over Honkasalo, Abe and Hamalainen in further view of Turina (US 6,031,832) at least by reason of its dependency and the statements with respect to 35 USC §103(c) above.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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Date

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